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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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62767 (51969)

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EXAMINER

NGUYEN, STEVEN C

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/525,390	<b>Applicant(s)</b> PREHOFFER ET AL.	
	<b>Examiner</b> STEVEN C. NGUYEN	<b>Art Unit</b> 2443	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 30 March 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 58-79 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 58-79 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. This action is responsive to the amendment and remarks filed on 03/30/2009.
2. **Claims 58-79** are pending in this application.
3. **Claims 58, 68, 69, 79** have been amended.
4. **Claims 1-57** have been cancelled.

### ***Response to Arguments***

5. Applicant's arguments with respect to **Claims 58-79** have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claims 58-79** are rejected under 35 U.S.C. 103(a) as being unpatentable over Chwieseni et al (US Patent 6,970,444) in view of Moshir, hereinafter Chwieseni and Moshir.
7. **Regarding Claim 58**, Chwieseni disclosed:
  - a. a method of reconfiguration for a network node in an ad hoc network (*abstract*);

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b. determining a network node in the ad hoc network for reconfiguration (*Column 4, Lines 42-57 state that a requesting node sends a request for information to neighbor nodes which can respond with node update information*);

c. and the step of determining the network node in the ad hoc network for reconfiguration is based on at least one criterion selected from a group comprising: communication capability of the network node, network connectivity, profile data of the network node, movement patten of the network node, hardware status of the network node, priority of the network node, and group membership of the network node (*Column 4, Line 42 – Column 5, Line 41, Column 6, Lines 10-13 states that a node within the network can be required to authenticate itself before transmitting information [communication capability], a mobile node can query it's neighbors to determine network state [network connectivity], and once all responses are gathered, a node can determine which neighbor is authorized to provide the required data updates [group membership]*).

Chwieseni did not explicitly disclose:

d. preparing a transition from an initial software configuration to a target software configuration,

e. deciding on commitment to the target software configuration in view of a result of reconfiguration indicated through at least one further network node in the ad-hoc network;

f. wherein the step of committing to the target software configuration is taken when every result of reconfiguration received at the network node from a reachable further network node is evaluated to be positive.

However, Moshir disclosed:

g. preparing a transition from an initial software configuration to a target software configuration (*Column 3, Lines 27-32 states that the invention determines if software needs upgrading and if so, the update process begins*);

h. deciding on commitment to the target software configuration in view of a result of reconfiguration indicated through at least one further network node in the ad-hoc network (*Column 12, Lines 17-32 state that if the initial installation is successful, then the next node on the network is updated*);

i. wherein the step of committing to the target software configuration is taken when every result of reconfiguration received at the network node from a reachable further network node is evaluated to be positive (*Column 12, Lines 17-26 state that a successful installation must be detected before continuing with the update for every node*).

j. The utilization of the readily available preparing a transition to a target software configuration, deciding on the commitment, and positive evaluation of Moshir would have been obvious to one of ordinary skill in the art in view of the teachings of Chwieseni since all the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions. The combination would have yielded

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nothing more than predictable results to one of ordinary skill in the art at the time of the invention, for example, to ensure that the software upgrade is compatible with the nodes before continuing to update every node.

**8. Regarding Claim 59**, the limitations of Claim 58 have been addressed.

Chwieseni did not explicitly disclose:

a. wherein it further comprises a step of negotiating a maximum reconfiguration time period with at least one further network node before executing the transition from the initial software configuration to the target software configuration.

However, Moshir disclosed:

b. wherein it further comprises a step of negotiating a maximum reconfiguration time period with at least one further network node before executing the transition from the initial software configuration to the target software configuration *(Column 12, Lines 5-16 state that failure can be detected by the target computer not notifying the monitor that a failure has occurred within a specified time. If a failure is determined, the system is rolled back. The specified time would be the maximum reconfiguration time).*

c. The utilization of the readily available negotiating a maximum reconfiguration time period of Moshir would have been obvious to one of ordinary skill in the art in view of the teachings of Chwieseni since all the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions. The combination would have yielded nothing more than predictable results to one of ordinary skill in the art at

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the time of the invention, for example, to ensure that the network is not slowed down by the update process.

**9. Regarding Claim 60**, the limitations of Claim 58 have been addressed.

Chwieseni did not explicitly disclose:

a. wherein it further comprises a step of coordinating a start of reconfiguration at the network node with a start of reconfiguration in at least one further network node

However, Moshir disclosed:

b. wherein it further comprises a step of coordinating a start of reconfiguration at the network node with a start of reconfiguration in at least one further network node *(Column 12, Lines 17-32 state that a node is updated first and after a successful installation is confirmed, the next node will begin the update. Therefore, a start of a node is coordinated with a start of the next node once successful installation is confirmed)*.

c. The utilization of the readily available negotiating a maximum reconfiguration time period of Moshir would have been obvious to one of ordinary skill in the art in view of the teachings of Chwieseni since all the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions. The combination would have yielded nothing more than predictable results to one of ordinary skill in the art at the time of the invention, for example, to ensure the compatibility of the software upgrade before continuing on with the process.

**10. Regarding Claim 61**, the limitations of claim 58 have been addressed.

Chwieseni did not explicitly disclose:

a. determining network nodes being reachable from the reconfigured network node when ad hoc network communication is interrupted during the transition from the initial software configuration to the target software configuration .

However, Moshir disclosed:

b. determining network nodes being reachable from the reconfigured network node when ad hoc network communication is interrupted during the transition from the initial software configuration to the target software configuration (*Column 12, Lines 17-32 state that when the network communication is interrupted [due to the software updating], the network nodes that are considered reachable are the ones that return either successful or failure response*).

c. The utilization of the readily available determining network nodes being reachable from the reconfigured node of Moshir would have been obvious to one of ordinary skill in the art in view of the teachings of Chwieseni since all the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions. The combination would have yielded nothing more than predictable results to one of ordinary skill in the art at the time of the invention, for example, to be able to find out which nodes updated successfully and which did not.

**11. Regarding Claim 62**, the limitations of Claim 58 have been addressed.

Chwieseni did not explicitly disclose:



a. falling back to the initial software configuration when at least one result of reconfiguration received at the network node from a reachable further network node is evaluated to be negative.

However, Moshir disclosed:

b. falling back to the initial software configuration when at least one result of reconfiguration received at the network node from a reachable further network node is evaluated to be negative (*Column 10 Lines 46-56 state that if failure occurs, the software can be removed and the node can be returned to a pre-update state or an acceptable non-updated state*).

c. The utilization of the readily available falling back to initial software configuration of Moshir would have been obvious to one of ordinary skill in the art in view of the teachings of Chwieseni since all the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions. The combination would have yielded nothing more than predictable results to one of ordinary skill in the art at the time of the invention, for example, to be able to continue operation of the network with a configuration that was last working if there are issues with the update.

**12. Regarding Claim 63,** the limitations of Claim 58 have been addressed.

Chwieseni did not explicitly disclose:

a. a step of falling back to the initial software configuration when no result of reconfiguration result is received at the network node until expiry of the maximum reconfiguration time period.

However, Moshir disclosed:

b. a step of falling back to the initial software configuration when no result of reconfiguration result is received at the network node until expiry of the maximum reconfiguration time period (*Column 12, Lines 5-16 state that failure can be detected by the target computer not notifying the monitor that a failure has occurred within a specified time. If a failure is determined, the system is rolled back*).

c. The utilization of the readily available falling back to initial software if not result is received of Moshir would have been obvious to one of ordinary skill in the art in view of the teachings of Chwieseni since all the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions. The combination would have yielded nothing more than predictable results to one of ordinary skill in the art at the time of the invention, for example, to have a course of action if there is no response from the node.

**13. Regarding Claim 64,** the limitations of Claim 58 have been addressed.

Chwieseni did not explicitly disclose:

a. a step of sending a positive reconfiguration result when the transition from the initial software configuration to the target software configuration is successful.

However, Moshir disclosed:

b. a step of sending a positive reconfiguration result when the transition from the initial software configuration to the target software configuration is

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successful (*Column 12, Lines 17-32 state that a successful confirmation is required before moving on to the next node*).

c. The utilization of the readily available sending a positive reconfiguration result of Moshir would have been obvious to one of ordinary skill in the art in view of the teachings of Chwieseni since all the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions. The combination would have yielded nothing more than predictable results to one of ordinary skill in the art at the time of the invention, for example, to know when reconfiguration of the node was successful.

**14. Regarding Claim 65,** the limitations of Claim 58 have been addressed.

Chwieseni did not explicitly disclose:

a. a step of sending a negative reconfiguration result when the transition from the initial software configuration to the target software configuration is not successful.

However, Moshir disclosed:

b. a step of sending a negative reconfiguration result when the transition from the initial software configuration to the target software configuration is not successful (*Column 10, Lines 19-31 states that a monitor checks the installation to determine results of the update. If it detects a failure, there is the ability to roll back*).

c. The utilization of the readily available sending a negative reconfiguration result of Moshir would have been obvious to one of ordinary skill in the

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art in view of the teachings of Chwieseni since all the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions. The combination would have yielded nothing more than predictable results to one of ordinary skill in the art at the time of the invention, for example, to know when reconfiguration of the node was unsuccessful.

**15. Regarding Claim 66,** the limitations of Claim 58 have been addressed.

Chwieseni did not explicitly disclose:

a. a step of retrieving software for executing the transition from the initial software configuration to the target software configuration locally from a portable electronic device.

However, Moshir teaches:

b. a step of retrieving software for executing the transition from the initial software configuration to the target software configuration locally from a portable electronic device (*Column 8, Lines 41-53 state that the update agent is a software component that is installed initially on the network machines, making it local*).

c. The utilization of the readily available retrieving software for execution of software transition of Moshir would have been obvious to one of ordinary skill in the art in view of the teachings of Chwieseni since all the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions. The combination would have yielded nothing more than predictable results to one of ordinary

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skill in the art at the time of the invention, for example, to have the updated software on hand.

**16. Regarding Claim 67,** the limitations of Claim 58 have been addressed.

Chwieseni disclosed:

a. a step of retrieving software for executing the transition from the initial software configuration to the target software configuration remotely via a mobile communications environment (*Column 3, Lines 32-41, Column 4, Lines 1-3 state that the network includes a plurality of mobile wireless nodes that can transmit node update information*).

**17. Regarding Claim 68,** the limitations of Claim 58 have been addressed.

Chwieseni did not explicitly disclose:

a. a step of pre-installing software for executing the transition from the initial software configuration to the target software configuration in the network node.

However, Moshir disclosed:

b. a step of pre-installing software for executing the transition from the initial software configuration to the target software configuration in the network node (*Column 8, Lines 41-53 state that the update agent is a software component that is installed initially on the network machine*).

c. The utilization of the readily available pre installing software for executing the transition of Moshir would have been obvious to one of ordinary skill in the art in view of the teachings of Chwieseni since all the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by

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known methods with no change in their respective functions. The combination would have yielded nothing more than predictable results to one of ordinary skill in the art at the time of the invention, for example, to have all the software necessary to install the update immediately.

**18. Regarding Claim 69**, the claim is substantially similar to Claim 58 and is therefore rejected under the same rationale.

**19. Regarding Claim 70**, the claim is substantially similar to Claim 59 and is therefore rejected under the same rationale.

**20. Regarding Claim 71**, the claim is substantially similar to Claim 60 and is therefore rejected under the same rationale.

**21. Regarding Claim 72**, the claim is substantially similar to Claim 61 and is therefore rejected under the same rationale.

**22. Regarding Claim 73**, the claim is substantially similar to Claim 62 and is therefore rejected under the same rationale.

**23. Regarding Claim 74**, the claim is substantially similar to Claim 63 and is therefore rejected under the same rationale.

**24. Regarding Claim 75**, the claim is substantially similar to Claim 64 and is therefore rejected under the same rationale.

**25. Regarding Claim 76**, the claim is substantially similar to Claim 65 and is therefore rejected under the same rationale.

**26. Regarding Claim 77**, the claim is substantially similar to Claim 66 and is therefore rejected under the same rationale.

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**27. Regarding Claim 78**, the claim is substantially similar to Claim 67 and is therefore rejected under the same rationale.

**28. Regarding Claim 79**, Chwieseni and Moshir disclose:

a. a computer program stored on a computer readable storage medium of a network node of an ad hoc network, comprising software code portions for performing the steps of Claim 58, when the product is run on a processor of the network node (*As Chwieseni and Moshir's invention are meant to be run on a computer network, there must be a computer program that is loaded into the internal memory in order for the computer to understand the instructions*).

### **Conclusion**

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to STEVEN C. NGUYEN whose telephone number is (571)270-5663. The examiner can normally be reached on Monday through Thursday with alternating Friday 7:30AM - 5:00PM, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tonia Dollinger can be reached on (571) 272-4170. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/S.C.N./  
Examiner, Art Unit 2443  
06/11/2008

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